

Forty-ninth Legislature
First Regular Session

COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2047

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 41-3904, Arizona Revised Statutes, is amended to
3 read:

4 41-3904. Powers of board

5 A. The board may:

6 1. Adopt an official seal and alter the seal at its pleasure.

7 2. Apply for, accept and administer grants of monies or materials or
8 property of any kind from a federal agency or others, subject to subsection B
9 of this section and on such terms and conditions as may be imposed.

10 3. Issue bonds or certificates or provide financial assistance for
11 housing purposes. The bonds and certificates shall be in the name of the
12 authority. An affirmative vote by a majority of the members of the board is
13 necessary to issue bonds or certificates.

14 4. Make and enter into agreements, including intergovernmental
15 agreements pursuant to title 11, chapter 7, article 3, execute all
16 instruments, perform all acts and do all things necessary or convenient to
17 carry out the powers granted in this article.

18 5. Employ or contract with housing experts, engineers, architects,
19 attorneys, accountants, construction and financial experts and such other
20 persons as may be necessary in its judgment and fix their compensation. Any
21 person employed or contracted with pursuant to this paragraph shall not
22 represent more than one party in any transaction.

23 6. Appoint an executive director and other employees as it deems
24 necessary who serve at the pleasure of the board and receive such
25 compensation as the board shall fix.

26 7. Sue and be sued.

1 8. Acquire and maintain office space, equipment, supplies, services
2 and insurance necessary to administer this article.

3 9. Contract with, act as guarantor for or coinsure with any federal,
4 state or local governmental agency and other organizations or corporations in
5 connection with its housing activities under this article and receive monies
6 relating to those contracts and services. If the authority acts as coinsurer
7 with the department of housing and urban development under the housing
8 finance authority risk sharing program, the authority shall notify a city,
9 town, county or tribal government that coinsurance of a multifamily
10 residential rental project is planned for its jurisdiction and, before
11 proceeding, shall request and obtain written consent from the governing body
12 of the city, town, county or tribal government or an official authorized by
13 the governing body of the city, town, county or tribal government. The
14 authority shall not interfere with or attempt to override the local
15 jurisdiction's planning, zoning or land use regulations. This paragraph
16 shall not be interpreted to interfere in any way with the requirements of
17 state or federal fair housing laws.

18 10. Adopt bylaws and administrative rules consistent with this article.

19 11. Protect and enforce the interests of the authority in any project
20 financed through the authority's resources.

21 12. Enter into and inspect any housing facility financed through the
22 authority's resources to investigate its physical condition, construction,
23 rehabilitation, operation, management and maintenance and to examine all of
24 the records relating to its capitalization, income and other related matters.

25 13. Establish fees and collect reimbursement of costs in connection
26 with the issuance of bonds or certificates pursuant to section 41-3906.

27 **14. OFFER INTERIM FINANCING, SUBJECT TO ALL TERMS AND CONDITIONS THE
28 BOARD ESTABLISHES.**

29 B. The authority may acquire title to real property by gift, grant or
30 operation of law, or by purchase if the board deems the purchase necessary to
31 preserve the affordability of a housing facility, and may hold the title for
32 a temporary period of time. On acquiring title to real property, the

1 authority shall immediately begin the process of disposing of the property on
2 the real estate market for its market value. The authority shall not acquire
3 title to real property by eminent domain.

4 Sec. 2. Section 41-3906, Arizona Revised Statutes, is amended to read:

5 **41-3906. Issuance of bonds or mortgage credit certificates**

6 A. The board, for and on behalf of the authority, by resolution may:

7 1. Issue bonds for projects consisting of multifamily residential
8 rental projects in rural areas as defined in section 35-913.

9 2. Issue bonds to finance residential dwelling units in the exercise
10 by the authority of the powers granted in section 35-706, subsection A,
11 paragraphs 11, 12, 13 and 14 in rural areas as defined in section 35-913.

12 3. Establish mortgage credit certificate programs to finance
13 residential dwelling units in the exercise by the authority of the powers
14 granted in section 35-706, subsection A, paragraphs 11, 12, 13 and 14 in
15 rural areas as defined in section 35-913.

16 B. For the activities authorized in subsection A, paragraph 1 of this
17 section, the authority shall notify a city, town, county or tribal government
18 and any existing corporation as defined in section 35-701 that a multifamily
19 residential rental project is planned for its jurisdiction and, before
20 proceeding, shall request and obtain written consent from the governing body
21 of the city, town, county or tribal government or an official authorized by
22 the governing body of the city, town, county or tribal government. The
23 authority shall not interfere with or attempt to override the local
24 jurisdiction's planning, zoning or land use regulations. This subsection
25 shall not be interpreted to interfere in any way with the requirements of
26 state or federal fair housing laws.

27 C. Notwithstanding the geographic limitations established in
28 subsection A of this section and in section 35-913, subsection J, the
29 authority may enter into intergovernmental agreements or cooperative
30 agreements described in section 35-706, subsection G, with the corporations
31 described in section 35-706, subsection E, for the issuance of bonds or
32 certificates for activities relating to property located in the geographic

1 areas of the parties to the agreement. The authority shall not interfere
2 with or attempt to override any local jurisdiction's planning, zoning or land
3 use regulations.

4 D. The bonds and any bonds refunding those bonds may be issued in one
5 or more series, bear such date or dates, be in such denomination or
6 denominations, mature at such time or times, not exceeding forty years from
7 the respective dates thereof, mature in such amount or amounts, bear interest
8 at fixed or variable rates payable at least annually, be in such form, carry
9 such registration privileges, be executed in such manner, be payable in such
10 medium of payment, at such place or places, be refundable either at or in
11 advance of maturity and be subject to such terms of redemption, with or
12 without premium, as the board directs. The bonds may be sold at either
13 public or private sale or by an electronic bidding process in such manner and
14 on such terms as may be determined by the board to be the most
15 advantageous. Such bonds shall be fully negotiable within the meaning and
16 for all purposes of title 47.

17 E. Principal and interest on the bonds are payable solely from the
18 revenues derived by the authority from the agreements authorized by this
19 article.

20 F. Any resolution authorizing the issuance of bonds or establishing a
21 certificate program may provide for:

22 1. Execution of agreements and instruments the board deems necessary,
23 including the execution of a trust indenture and assignment to a trustee of
24 the agreements relating to the issue of bonds in order to protect the
25 bondholder or bondholders and facilitate the payment of the principal and
26 interest on the bonds.

27 2. Payment of the bonds solely from the monies paid by the obligated
28 housing facility or facilities.

29 3. Capitalization of a bond reserve with any appropriate monies when
30 the board deems necessary.

31 4. Limitations on the issuance of future bonds or certificates or
32 restrictions or formulas relative to the issuance of future bonds of equal or

1 secondary lien, or for a lien on or pledge of the revenues received from any
2 project.

3 5. Restrictions as to liens, encumbrances or alienation of any
4 property.

5 6. THE OFFER OF INTERIM FINANCING, SUBJECT TO ALL TERMS AND CONDITIONS
6 THE BOARD ESTABLISHES.

7 6. Covenants as to the procedures by which the terms of any
8 agreement for the benefit of a holder or holders of bonds may be amended or
9 abrogated, the amount or percentage of bonds the holder or holders of which
10 must consent to and the manner in which consent may be given.

11 7. Assignment to a trustee of any or all agreements made or
12 entered into by the authority and vesting in the trustee the right to enforce
13 any covenant made to secure or pay the bonds.

14 8. Execution and delivery of trust agreements setting forth the
15 powers, duties and remedies available to trustees, limiting liabilities,
16 describing what occurrences constitute default and prescribing terms and
17 conditions on which trustees or holders of bonds of any specified amount or
18 percentage of such bonds may exercise and enforce any rights, covenants and
19 remedies.

20 9. Vesting in a trustee or holder of any specified amount or
21 percentage of bonds the right to apply to any court of competent jurisdiction
22 for, and have granted, the appointment of a receiver to act under the terms
23 of any agreement.

24 10. 11. ~~A provision for~~ Reclamation of the housing facility if a
25 payment required under an agreement or any other condition required in an
26 agreement is not timely paid or is breached.

27 11. 12. ~~A provision for~~ The appointment of a receiver to operate the
28 facility during a period of default in the regular payment or performance
29 under an agreement.

30 G. Bonds bearing the signatures of officers in office on the date of
31 the signing of the bonds are valid and binding obligations, notwithstanding
32 that before their delivery and payment any persons whose signatures appear on

1 the bonds have ceased to be officers of the authority. The validity of the
2 bonds is not dependent on or affected by the validity or regularity of any
3 proceedings to acquire the project financed by the bonds or taken in
4 connection therewith. No action may be brought questioning the legality of
5 any agreement, proceeding or issuance of bonds under this article after two
6 months from the date the bonds are authorized to be issued by the board."

7 Amend title to conform

and, as so amended, it do pass

MICHELE REAGAN
Chairman

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